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8 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the:

11 Health Net of California, Inc.,
12 Respondent.

Enforcement Matter No.: 07-206

13 }
14 } **CONSENT AGREEMENT**

15 This Consent Agreement is made and entered into on this 16th day of November,
16 2007 by and between HEALTH NET OF CALIFORNIA, INC., (Health Net) and the
17 DEPARTMENT OF MANAGED HEALTH CARE (the Department) solely for the
18 purpose of resolving the Department's findings that Health Net representatives did not
19 appropriately disclose the existence of Health Net's bonus and incentive plan for
20 employees in its underwriting department. Health Net's representations occurred during
21 the Department's Non-Routine Medical Survey assessing its practices relating to
22 rescission of individual health care coverage.

23 Health Net is a full service health care service plan, license number 933 0300,
24 subject to the regulatory jurisdiction of the Department under the Knox-Keene Health
25 Care Service Plan Act, Health and Safety Code, section 1340 et seq. (the Act).

26 In October of 2006, after receiving numerous complaints regarding rescissions of
27 individual health care coverage, the Department initiated a Non-Routine Medical Survey
28 to assess Health Net's compliance with section 1389.3 of the Act. The Department

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DEPARTMENT OF MANAGED HEALTH CARE

By *C. B. B. B.*
Filing Clerk

1 conducted interviews with Health Net management, staff, and counsel and reviewed key
2 documents including policies, procedures, underwriting guidelines, and computer
3 programs. On October 17, 2007, representatives of the Department's Survey Team
4 conducted initial interviews of Health Net representatives and made inquiries whether
5 incentives for employees in its underwriting department were tied to the number of
6 rescissions completed. Health Net representatives affirmatively represented to the Survey
7 Team that no such incentives existed. On November 6, 2007, the Survey Team again
8 questioned Health Net representatives regarding bonuses, incentives, or additional
9 compensation to its employees based on either the number of rescissions completed or
10 the cost savings to Health Net arising from rescissions. Health Net representatives again
11 failed to provide full information regarding these issues.

12 On November 8, 2007, following an Order requiring Health Net to produce Health
13 Net's Senior Risk Analyst's Performance Evaluations and make them public in the *Bates*
14 *v. Health Net* matter the Plan offered this information to the Department.

15 The Performance Evaluations disclosed that Barbara Fowler's compensation and
16 bonus structure included consideration of the overall cost savings to Health Net resulting
17 from pursuing misrepresentations in individual applications.

18 The Performance Evaluations confirm that Health Net's Senior Risk Analyst
19 received a portion of her annual bonus for pursuing misrepresentations on individual
20 applications that saved Health Net money by avoiding payment of claims.

21 The Department and Health Net agree that it is in the best interests of Health Net
22 to enter into this Consent Agreement, and thereby settle the above-referenced findings
23 that Health Net failed to appropriately disclose the existence of its bonus and incentive
24 plan to the Department in violation of section 1386(b)(7) of the Act. This Consent
25 Agreement is limited solely to Health Net's misrepresentations to the Department and has
26 no effect on any other aspect of the Non-Routine Medical Survey currently underway, or
27 any other pending enforcement matters alleging violations of the Act.

1 NOW, THEREFORE, the Department of Managed Health Care and Health Net of
2 California mutually agree to enter into this Consent Agreement, as follows:

3 A. Health Net shall not award performance bonuses, incentives, or any other
4 compensation that is tied in any way to the number of rescissions completed during a
5 certain time period, and/or the resulting cost savings to Health Net.

6 B. Health Net acknowledges the Department's findings and agrees to pay an
7 administrative penalty in the amount of \$1 million, via electronic payment, to settle this
8 matter.

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10 Dated: November 16, 2007
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13 By: Patricia Sturdevant
14 PATRICIA STURDEVANT
15 Assistant Chief Counsel
16 Department of Managed Health Care

17 By: Stephen Lynch
18 Stephen Lynch
19 President
20 Health Net of California
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